

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 4:19-CR-00745-HEA-1
	)	
ROBERT FOUNTAINE,	)	
	)	
Defendant.	)	

**GOVERNMENT'S SENTENCING MEMORANDUM**

Comes now the United States of America, by and through its attorneys, Jeffrey B. Jensen, United States Attorney for the Eastern District of Missouri, and Diane Klocke, Special Assistant United States Attorney for said District, and files its sentencing memorandum:

On January 13, 2020, the Defendant pled guilty to one count of theft of government funds. As part of the plea agreement, the parties agreed that the total offense level was twelve, and that the determination of Defendant's criminal history category would be left to the Court. Either party may ask for a sentence that is above or below the guideline range in this case.

The Government respectfully requests that the Court sentence the defendant to a guideline sentence of 12 months. This sentence is within the applicable guideline range of level twelve (12) in Zone C of the guidelines Sentencing Table.

1. Title 18, United States Code, Section 3553(a) sets out the factors this Court should consider in fashioning an appropriate sentence. One such factor to be considered is the nature and circumstances of the offense, and the history and characteristics of the

defendant. 18 USC 3553 (a)(1). Defendant has a criminal history score of three, establishing a criminal history category of II.

2. As to the nature and circumstances of the offense, the Defendant was concealing the death of his step-mother, E.B., in order to collect E.B.'s benefits from the Social Security Administration. E.B. died in September, 1999, and her benefits were sent both via check to the Defendant's address and via direct deposit into E.B.'s Comerica Bank account. Despite E.B.'s death, defendant did not properly report E.B.'s death to Social Security, and continued cashing checks that were written to E.B. as well as using E.B.'s direct deposits. Defendant used these benefits for almost nineteen years past E.B.'s death. This information is relevant to the facts and circumstances of this case as well as the characteristics of this defendant. The defendant's continued concealment of E.B.'s death from the Social Security Administration, as well as his long and continued collection of E.B.'s benefits, illustrate a pattern of criminal behavior in committing an ongoing offense. A sentence of twelve months would adequately reflect the defendant's history and characteristics as well as a pattern of criminal conduct evident in the nature and circumstances of this offense.
3. The Court should also consider adequate deterrence to criminal conduct. 18 USC 3553(a)(2)(B). The sentencing in this matter must be adequate to not only deter this defendant from such criminal conduct in the future, but also to deter other individuals from committing this type of crime. A sentence of twelve months of confinement would indicate to the defendant and others that this pattern of conduct is criminal,

even when it appears the only victim is the United States government, and those who commit this crime will be penalized accordingly.

4. The defendant has an advisory guideline range of punishment of 12 to 18 months in prison under the United States Sentencing Commission Guidelines. The defendant's guideline range of punishment falls in Zone C of the guidelines Sentencing Table. The Government contends that there is no additional basis in law or the underlying facts and circumstances to justify a downward variance to a sentence less than the advisory guideline sentence.

WHEREFORE, the United States of America prays that this Honorable Court sentence defendant to an appropriate term of twelve (12) months confinement within the advisory guideline range, without a downward variance.

Respectfully submitted,

JEFFREY B. JENSEN  
United States Attorney

s/ Diane E.H. Klocke  
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**CERTIFICATE OF SERVICE**

I hereby certify that on November 6, 2020, the foregoing was filed electronically with the Clerk of the Court to be served by email upon the following:

Felicia Jones  
Federal Public Defender's Office

s/ Diane E.H. Klocke  
DIANE E.H. KLOCKE, #61670(MO)  
Special Assistant United States Attorney